

EXHIBIT 20

JEFFERY A. STEC, PH.D. - JULY 13, 2023
IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

NIKE, INC.,)
)
Plaintiff,)
)
-vs-) No. 1:22-cv-00983-VEC
)
STOCKX LLC,)
)
Defendant.)

Video-recorded deposition of JEFFERY A. STEC,
PH.D., taken before TRACY L. BLASZAK, CSR, CRR, and
Notary Public, pursuant to the Federal Rules of Civil
Procedure for the United States District Courts
pertaining to the taking of depositions, at Suite 900,
444 West Lake Street, in the City of Chicago, Cook
County, Illinois at 9:02 a.m. on the 13th day of July,
A.D., 2023.

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There were present at the taking of this deposition the following counsel:

DLA PIPER by
MR. JOSHUA SCHWARTZMAN
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on behalf of the Plaintiff;

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on behalf of the Defendant;

ALSO PRESENT: Mr. Robert Zellner
Legal Videographer.

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2 But at the end of the day if you're a consumer,
3 you want to buy this shoe, you Google it, find out to
4 where it is, you can go to either StockX or Nike to buy
5 it.

6 Q Dr. Stec, are you able to identify even a single
7 sale of a Nike shoe on StockX that definitely occurred
8 at the same time that shoe was available in the same
9 size on Nike.com?

10 A That's not something that I endeavored to do in
11 this analysis. What I endeavored to do in this analysis
12 is show that if you're a consumer in the marketplace and
13 you're interested in this particular shoe where can you
14 go to buy it.

15 Now, I was focused, obviously, on Nike and
16 StockX. I'm not suggesting you couldn't go to Foot
17 Locker or Dick's or wherever and not buy the shoe there.
18 But if you're just simply looking at these two
19 companies, you could buy the shoes that I have listed
20 there at least in the sizes that I have listed there
21 from either company.

22 Q And it's not only that you weren't endeavoring
23 to do that, but, in fact, the work you did does not show
24 that there was even a single instance of a Nike shoe
25 sold on StockX at a time when the same shoe was

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2 available in the same size on Nike.com, right?

3 MR. SCHWARTZMAN: Objection.

4 THE WITNESS: So I don't have and I don't
5 believe StockX produced the exact date of each of their
6 sales for each of these shoes. So I don't have that
7 information.

8 If StockX has that information, I'm happy to
9 consider it. But at this point that information, as far
10 as I know, doesn't exist.

11 BY MR. RIEHL:

12 Q And so your study did not show definitively that
13 there was such a sale, right?

14 A So, again, I wasn't asked to look at this, but I
15 don't believe that at least I'm aware of data that could
16 provide an answer to that particular question.

17 Q And your data does not provide an answer to that
18 particular question, right, and your study does not
19 provide an answer to that question, right?

20 MR. SCHWARTZMAN: Objection.

21 THE WITNESS: Again, that's not something that
22 I was endeavoring to do. I tried to explain both in my
23 report and today what I was endeavoring to do.

24 And it's clear to me that if you're a Nike
25 consumer and you'd like to buy a particular style of

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2 Q I'm not offering a characterization. But I am
3 asking you, is it your understanding that a seller on
4 StockX must have physical possession of the shoe at the
5 time they offer it for sale on StockX?

6 A So I don't recall and I'm not sure that this was
7 disclosed by StockX about the timing or the requirements
8 on timing when a transaction is consummated.

9 I could imagine that the business could be
10 adversely affected if sellers aren't providing buyers in
11 a timely fashion the price or, I'm sorry, the product
12 that they purchased.

13 But I'm not aware of the lag that StockX may
14 allow in that regard.

15 Q If someone has a particular style of Nike shoe
16 before Nike releases that shoe and it's a genuine Nike
17 shoe, they must have gotten that shoe from Nike or from
18 somebody who got it from Nike, right?

19 MR. SCHWARTZMAN: Objection.

20 THE WITNESS: I think that's maybe one way they
21 could have acquired the shoe. There may be other ways.

22 BY MR. RIEHL:

23 Q How else?

24 A I don't know. That's not something I've thought
25 about. That could be one certainly way what you

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2 suggested, but there could be other ways.

3 BY MR. RIEHL:

4 Q Nike sometimes gives away promotional samples
5 before the release date, right?

6 MR. SCHWARTZMAN: Objection.

7 THE WITNESS: That's true, I believe, yes.

8 BY MR. RIEHL:

9 Q And that's typically a pretty small number of
10 shoes relative to the launch size, right?

11 MR. SCHWARTZMAN: Objection.

12 THE WITNESS: I can't say one way or the other.
13 That would be a small number of shoes. Now that I've
14 thought about it a little bit more, I guess there are
15 ways, other ways that those shoes could be acquired.
16 They could be stolen, for example.

17 So Nike hasn't released the shoe yet but its
18 manufacturer had someone manufacture the shoe and
19 ultimately however it happened a large proportion of the
20 shoes or a large number of shoes had been stolen, and
21 that might be another way that you could access those
22 shoes before the launch.

23 BY MR. RIEHL:

24 Q And the usual definition of a release of a
25 product is the first time that product goes on sale,

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2 right?

3 MR. SCHWARTZMAN: Objection.

4 THE WITNESS: That seems reasonable. Could
5 there be other situations where a release might be
6 defined differently, I guess it's possible, but that
7 would be a general understanding I would have.

8 BY MR. RIEHL:

9 Q Nike could make the choice not to give away any
10 shoes of a particular style prerelease, right?

11 MR. SCHWARTZMAN: Object to form.

12 THE WITNESS: To the extent Nike has control
13 over that, that's something that Nike could do. If Nike
14 doesn't have control over some number of shoes or loses
15 control over some number of shoes, then I guess that's
16 another possible way those shoes could hit the market.

17 BY MR. RIEHL:

18 Q How might Nike not have control over that?

19 A Well, it has shoes that are stolen, for example.
20 So it manufactures the shoes, it provides the shoes to
21 perhaps a retailer or something or maybe it's even
22 warehoused at Nike and those shoes are stolen.

23 Q Are there any other ways Nike could not have
24 control over it?

25 A Again, this isn't something I've tried to

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2 exhaustively think about. It's an example of how like
3 Nike could lose control of some inventory of shoes. I'm
4 thinking that it's likely something that they try to
5 avoid, but my understanding is that shoes are stolen,
6 that happens.

7 Q To the extent that resales of shoes that Nike
8 gives away prerelease puts competitive pressure on Nike,
9 Nike could reduce that pressure by not giving away
10 shoes, right?

11 MR. SCHWARTZMAN: Objection.

12 THE WITNESS: So Nike may have agreements with
13 whomever are receiving these shoes to not release these
14 shoes or not to give these shoes away, perhaps by some
15 date or perhaps at all. I don't know.

16 So Nike may already have those types of
17 processes in place. And for whatever reason those
18 processes weren't observed.

19 I'm not sure that that would be a choice that
20 Nike would have. It would seem that the counterparty
21 might be the one that's making the choice to do
22 something that isn't allowed, at least in a potential
23 agreement it has with Nike.

24 BY MR. RIEHL:

25 Q And you don't know whether or not Nike has those